

CRIMINAL NUMBER 1:02-CR-00157  
CIVIL NUMBER \_\_\_\_\_

IN THE  
UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

STEVEN M. RENNICK, SR.

Defendant-Movant

VS

UNITED STATES OF AMERICA

Plaintiff-Respondent

MOTION TO VACATE, SET ASIDE  
OR CORRECT A SENTENCE  
BY A PERSON IN FEDERAL CUSTODY  
PURSUANT TO 28 USC § 2255

APPENDIX

VOLUME ONE

SUBMITTED BY MOVANT

Steven M. Rennick, Sr.  
Movant Pro Se  
Reg. No.: 04050-032  
Federal Medical Center  
P.O. Box 14500  
Lexington, Kentucky 40512-4500

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## APPENDIX FOR MOTION PURSUANT TO 28 USC § 2255

RENNICK vs. USA No.: CR 1-02-157

## VOLUME ONE

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

UNITED STATES OF AMERICA

CRIMINAL NO.

**CR 1 02 157-**

v.

INDICTMENT

KAREEM COLE  
DAVID JONES  
aka Paul Burke  
aka Phillip Davidson  
STEVEN RENNICK, SR.  
STEVEN RENNICK, JR.  
MATTHEW ELLIOT  
EDDIE MOORE

18 U.S.C. § 2  
21 U.S.C. § 841(a) (1)  
21 U.S.C. § 841(b) (1) (B) & (D)  
21 U.S.C. § 846  
21 U.S.C. § 853

**DLOTT**

The Grand Jury charges that:

COUNT 1

Beginning from in or about January 2002, the exact date being unknown to the grand jury, and continuing up to and including October 16, 2002, in the Southern District of Ohio, and elsewhere, KAREEM COLE, DAVID JONES aka Paul Burke aka Phillip Davidson, STEVEN RENNICK, SR., STEVEN RENNICK, JR., MATTHEW ELLIOT and EDDIE MOORE, the defendants herein, and others did knowingly, willfully, intentionally, and unlawfully combine, conspire, confederate, and agree, and have a tacit understanding with each other, to commit offenses against the United States, to wit: to knowingly, willfully, intentionally and unlawfully distribute and possess with intent to distribute a Schedule I controlled substance, namely in excess of one hundred (100)

8  
(DE-8 P1 JA-1)

kilograms of marijuana, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B).

It was a part of the conspiracy that KAREEM COLE and DAVID JONES aka Paul Burke aka Phillip Davidson would arrange to purchase marijuana from outside the Southern District of Ohio for sale to STEVEN RENNICK, SR., STEVEN RENNICK, JR., MATTHEW ELLIOT, EDDIE MOORE and others in the Southern District of Ohio.

It was further a part of the conspiracy that KAREEM COLE and DAVID JONES aka Paul Burke aka Phillip Davidson would arrange to have marijuana transported by motor vehicle from Arizona to the Southern District of Ohio by STEVEN RENNICK, SR.

It was further a part of the conspiracy that its members would store large quantities of marijuana and U.S. currency, the proceeds of marijuana sales, in their homes and other locations.

In furtherance of the conspiracy and in order to accomplish its objectives, the defendants committed, among others, the following;

#### OVERT ACTS

1. On or about July 23, 2002, Steven Rennick, Sr. purchased a Freightliner tractor in Arizona for \$88,000.00 to be used for the transportation of marijuana.

2. On or about October 15, 2002, Kareem Cole, David Jones aka Paul Burke aka Phillip Davidson, Steven Rennick, Sr. and Steven Rennick, Jr. stored approximately 500 pounds of marijuana in a warehouse in Cincinnati, Ohio.

3. On or about October 15, 2002, Matthew Elliot and Eddie Moore obtained approximately 50 pounds of marijuana from the same warehouse in Cincinnati, Ohio.

4. On or about October 15, 2002, Matthew Elliot and Eddie Moore stored approximately 30 pounds of marijuana in a residence in Norwood, Ohio.

5. On or about October 16, 2002, Kareem Cole and David Jones aka Paul Burke aka Phillip Davidson possessed approximately 25 pounds of marijuana in the trunk of an automobile in Cincinnati, Ohio.

6. On or about October 16, 2002, Kareem Cole and David Jones aka Paul Burke aka Phillip Davidson possessed approximately \$50,000.00 in U.S. currency and scales to weigh marijuana at their residence in Cincinnati, Ohio.

All in violation of 21 U.S.C. § 846.

COUNT 2

On or about October 15, 2002, in the Southern District of Ohio, KAREEM COLE, DAVID JONES aka Paul Burke aka Phillip Davidson, STEVEN RENNICK, SR., and STEVEN RENNICK, JR., the defendants herein, did knowingly, wilfully, intentionally, and unlawfully distribute approximately 50 pounds of marijuana, a Schedule I Controlled Substance.

In violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(D) and 18 U.S.C. § 2.

COUNT 3

On or about October 15, 2002, in the Southern District of Ohio, **MATTHEW ELLIOT** and **EDDIE MOORE**, the defendants herein, did knowingly, wilfully, intentionally, and unlawfully possess with intent to distribute approximately 30 pounds of marijuana, a Schedule I Controlled Substance.

In violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(D) and 18 U.S.C. § 2.

COUNT 4

On or about October 16, 2002, in the Southern District of Ohio, **KAREEM COLE**, **DAVID JONES** aka Paul Burke aka Phillip Davidson and **STEVEN RENNICK, SR.**, the defendants herein, did knowingly, wilfully, intentionally, and unlawfully possess with intent to distribute approximately 450 pounds of marijuana, a Schedule I Controlled Substance.

In violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B) and 18 U.S.C. § 2.

COUNT 5

On or about October 16, 2002, in the Southern District of Ohio, **KAREEM COLE** and **DAVID JONES** aka Paul Burke aka Phillip Davidson, the defendants herein, did knowingly, wilfully, intentionally, and unlawfully possess with intent to distribute approximately 25 pounds of marijuana, a Schedule I Controlled Substance.



In violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(D) and 18 U.S.C. § 2.

**FORFEITURE COUNT**

**(COUNT 1)**

Pursuant to 21 U.S.C. § 853(a), as a result of the violation in Count 1, the defendants shall forfeit to the United States:

- (1) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation; and
- (2) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.

**Substitute Assets**

Pursuant to 21 U.S.C. § 853(p), if any of the property that is forfeitable to the United States under 21 U.S.C. § 853(a) for violation of Count 1,

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with a third party;
- (3) has been placed beyond the jurisdiction of the court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States to seek forfeiture of any

other property of the defendants up to the value of any property described in paragraphs (1) through (5) immediately above.

A True Bill.

Stacey J. Morefield  
Grand Jury Foreperson

GREGORY G. LOCKHART  
United States Attorney

  
RALPH W. KOHNEN  
Deputy Criminal Chief



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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

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U.S. DISTRICT COURT  
SOUTHERN DISTRICT OHIO  
WESTERN DIVISION

UNITED STATES OF AMERICA : CR-1-02-157

v.

SUPERCEDING INDICTMENT

18 U.S.C. § 2

18 U.S.C. § 1957

21 U.S.C. § 841(a) (1)

21 U.S.C. § 841(b) (1) (B) & (D)

21 U.S.C. § 846

STEVEN RENNICK, SR. (3)  
MATTHEW ELLIOT (5)  
WAYNE BENJAMIN (7)

J. Dlott

The Grand Jury charges that:

COUNT 1

Beginning from in or about January 2002, the exact date being unknown to the grand jury, and continuing up to and including October 16, 2002, in the Southern District of Ohio, and elsewhere, STEVEN RENNICK, SR., MATTHEW ELLIOT, and WAYNE BENJAMIN, the defendants herein, and others did knowingly, willfully, intentionally, and unlawfully combine, conspire, confederate, and agree, and have a tacit understanding with each other, to commit offenses against the United States, to wit: to knowingly, willfully, intentionally and unlawfully distribute and possess with intent to distribute a Schedule I controlled substance, namely in excess of one hundred (100) kilograms of marijuana, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B).

(DE-59 P1 JA-7) 59

It was a part of the conspiracy that members of the conspiracy would arrange to purchase marijuana from outside the Southern District of Ohio for sale to **STEVEN RENNICK, SR., MATTHEW ELLIOT, WAYNE BENJAMIN**, and others in the Southern District of Ohio.

It was further a part of the conspiracy that **STEVEN RENNICK, SR., WAYNE BENJAMIN**, and others would transport marijuana by motor vehicle from Arizona to the Southern District of Ohio.

It was further a part of the conspiracy that its members would store large quantities of marijuana and U.S. currency, the proceeds of marijuana sales, in their homes and other locations.

It was further a part of the conspiracy that **STEVEN RENNICK, SR.** and **WAYNE BENJAMIN** would cause large amounts of U.S. currency generated by marijuana sales to be deposited into two business accounts controlled by **STEVEN RENNICK, SR.**; S&S Racing LLC and Earth Management Trucking, Inc.

It was further a part of the conspiracy that checks would be drawn on these business accounts to purchase a Freightliner tractor and real estate in Indiana to be occupied by **MATTHEW ELLIOT**.

In furtherance of the conspiracy and in order to accomplish its objectives, the defendants committed, among others, the following;

**OVERT ACTS**

1. On or about June 24, 2002, Steven Rennick, Sr. caused \$10,000.00 in cash to be deposited into the account of Earth Management Trucking, Inc.

2. On or about July 12, 2002, Steven Rennick, Sr. caused Wayne Benjamin to deposit \$30,000.00 in cash into the account of S&S Racing LLC.

3. On or about July 15, 2002, Steven Rennick, Sr. caused \$10,000.00 in cash to be deposited into the account of S&S Racing LLC.

4. On or about July 23, 2002, Steven Rennick, Sr. caused \$10,000.00 in cash to be deposited into the account of Earth Management Trucking, Inc.

5. On or about July 23, 2002, Steven Rennick, Sr. purchased a Freightliner tractor in Arizona for \$88,000.00 to be used for the transportation of marijuana.

6. On or about July 26, 2002, Steven Rennick, Sr. caused \$17,000.00 in cash to be deposited into the account of S&S Racing LLC.

7. On or about July 26, 2002, Steven Rennick, Sr. caused Wayne Benjamin to deposit \$14,000.00 in cash into the account of Earth Management Trucking, Inc.

8. On or about July 30, 2002, Steven Rennick, Sr. caused \$5,000.00 in cash to be deposited into the account of Earth Management Trucking, Inc.

9. On or about July 30, 2002, Steven Rennick, Sr. caused \$5,000.00 in cash to be deposited into the account of S&S Racing LLC.

10. On or about August 7, 2002, Steven Rennick, Sr. caused \$10,000.00 in cash to be deposited into the account of Earth Management Trucking, Inc.

11. On or about August 20, 2002, Steven Rennick, Sr. caused \$8,000.00 in cash to be deposited into the account of S&S Racing LLC.

12. On or about August 21, 2002, Steven Rennick, Sr. caused \$5,000.00 in cash to be deposited into the account of Earth Management Trucking, Inc.

13. On or about September 20, 2002, Steven Rennick, Sr. caused \$10,000.00 in cash to be deposited into the account of Earth Management Trucking, Inc.

14. On or about September 27, 2002, Steven Rennick, Sr. caused \$10,000.00 in cash to be deposited into the account of Earth Management Trucking, Inc.

15. On or about October 2, 2002, Steven Rennick, Sr. caused \$10,000.00 in cash to be deposited into the account of S&S Racing LLC.

16. On or about October 9, 2002, Steven Rennick, Sr. and Matthew Elliot caused a parcel of real estate to be purchased in Indiana, the down payment of approximately \$49,000.00 being made with funds generated by the sale of marihuana.

17. On or about October 15, 2002, Steven Rennick, Sr. stored approximately 500 pounds of marijuana in a warehouse in Cincinnati, Ohio.

18. On or about October 15, 2002, Matthew Elliot obtained approximately 50 pounds of marijuana from the same warehouse in Cincinnati, Ohio.

19. On or about October 15, 2002, Matthew Elliot and a person known to the Grand Jury stored approximately 30 pounds of marijuana in a residence in Norwood, Ohio.

20. On or about October 16, 2002, a person known to the grand jury possessed approximately 25 pounds of marijuana in the trunk of an automobile in Cincinnati, Ohio.

All in violation of 21 U.S.C. § 846.

COUNT 2

On or about July 12, 2002, in the Southern District of Ohio, defendants STEVEN RENNICK, SR. and WAYNE BENJAMIN did knowingly engage and attempt to engage in a monetary transaction by, through, or to a financial institution, affecting interstate or foreign commerce, in criminally derived property of a value greater than \$10,000.00, in that they caused a deposit of U.S. currency in the amount of \$30,000.00, such property having been derived from a specified unlawful activity, that is a conspiracy to possess with intent to distribute and to distribute marijuana and the distribution of marijuana, a Schedule I controlled substance, in violation of 21 U.S.C. §§ 846 & 841, to be made into account number 0373-506 in the name of S&S Racing, LLC at The Provident Bank.

All in violation of 18 U.S.C. §§ 1957 & 2.

COUNT 3

On or about July 26, 2002, in the Southern District of Ohio, defendants STEVEN RENNICK, SR. and WAYNE BENJAMIN did knowingly engage and attempt to engage in a monetary transaction by, through, or to a financial institution, affecting interstate or foreign commerce, in criminally derived property of a value greater than \$10,000.00, in that they caused a deposit of U.S. currency in the amount of \$14,000.00, such property having been derived from a specified unlawful activity, that is a conspiracy to possess with intent to distribute and to distribute marijuana and the distribution of marijuana, a Schedule I controlled substance, in violation of 21 U.S.C. §§ 846 & 841, to be made into account number 059-794 in the name of Earth Management Trucking Inc. at The Provident Bank.

All in violation of 18 U.S.C. §§ 1957 & 2.



COUNT 4

On or about July 26, 2002, in the Southern District of Ohio, defendant STEVEN RENNICK, SR. did knowingly engage and attempt to engage in a monetary transaction by, through, or to a financial institution, affecting interstate or foreign commerce, in criminally derived property of a value greater than \$10,000.00, in that he caused a deposit of U.S. currency in the amount of \$17,000.00, such property having been derived from a specified unlawful activity, that is a conspiracy to possess with intent to distribute and to distribute marijuana and the distribution of marijuana, a Schedule I controlled substance, in violation of 21 U.S.C. §§ 846 & 841, to be made into account number 0373-506 in the name of S&S Racing, LLC at The Provident Bank.

All in violation of 18 U.S.C. §§ 1957 & 2.

COUNT 5

On or about October 9, 2002, in the Southern District of Ohio and Southern District of Indiana, defendants **STEVEN RENNICK, SR.** and **MATTHEW ELLIOT** did knowingly engage and attempt to engage in a monetary transaction by, through, or to a financial institution, affecting interstate or foreign commerce, in criminally derived property of a value greater than \$10,000.00, that is, funds in the amount of \$49,391.36 withdrawn by check #5017 dated October 9, 2002 drawn on account #0959-794 of Earth Management Trucking, Inc. at the Provident Bank made payable to Steve Rennick, Jr., in the amount of \$49,391.36, and exchanged for Provident Bank check #194431181 dated October 9, 2002, made payable to Steve Rennick, Jr., in the amount of \$49,391.36, and transferred by endorsement to Advanced Land Title Agency, LTD. Escrow Account as the downpayment for the purchase of real estate located at 5830 E. Laughery Creek Road; Aurora, Indiana, such property (\$49,391.36) having been derived from a specified unlawful activity, that is, a conspiracy to distribute and to possess with intent to distribute a Schedule I controlled substance, marijuana, and the distribution of marijuana, in violation of 21 U.S.C. §§ 846 and 841(a)(1).

In violation of 18 U.S.C. §§ 1957 and 2.

COUNT 6

On or about October 15, 2002, in the Southern District of Ohio, **STEVEN RENNICK, SR.**, the defendant herein, did knowingly, wilfully, intentionally, and unlawfully distribute approximately 50 pounds of marijuana, a Schedule I Controlled Substance.

In violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(D) and 18 U.S.C. § 2.

COUNT 7

On or about October 15, 2002, in the Southern District of Ohio, **MATTHEW ELLIOT**, the defendant herein, did knowingly, wilfully, intentionally, and unlawfully possess with intent to distribute approximately 50 pounds of marijuana, a Schedule I Controlled Substance.

In violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(D) and 18 U.S.C. § 2.

COUNT 8

On or about October 16, 2002, in the Southern District of Ohio, **STEVEN RENNICK, SR.**, the defendant herein, did knowingly, wilfully, intentionally, and unlawfully possess with intent to distribute approximately 450 pounds of marijuana, a Schedule I Controlled Substance.

In violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B) and 18 U.S.C. § 2.

**FORFEITURE**  
**(COUNT 1)**

Pursuant to 21 U.S.C. § 853(a), as a result of the violation in Count 1, the defendants shall forfeit to the United States:

- (1) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation; and
- (2) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.

**Substitute Assets**

Pursuant to 21 U.S.C. § 853(p), if any of the property that is forfeitable to the United States under 21 U.S.C. § 853(a) for violation of Count 1,

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with a third party;
- (3) has been placed beyond the jurisdiction of the court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States to seek forfeiture of any

other property of the defendants up to the value of any property described in paragraphs (1) through (5) immediately above.

A True Bill.

Stacey T. Morefield  
Grand Jury Foreperson

GREGORY G. LOCKHART  
United States Attorney

Ralph W. Kohnen  
RALPH W. KOHNEN  
Deputy Criminal Chief

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

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UNITED STATES OF AMERICA

CR-1-02-157

v.

**NOTICE OF INTENTION TO**  
**USE RULE 404(b) EVIDENCE**

STEVEN RENNICK, SR. ET AL.

J. Diott

Now comes the United States of America, pursuant to Rule 404 of the Federal Rules of Evidence, and gives notice to Steven Rennick, Sr. that it intends to present evidence at trial in its case-in-chief that Steven Rennick, Sr. approached various individuals after his arrest and solicited them to give false testimony at his trial. Said evidence tends to establish consciousness of guilt and is admissible pursuant to Rule 404(b) of the Federal Rules of Evidence. United States v. Jorge Mendoza-Ortiz, 810 F.2d 76 (6<sup>th</sup> Cir. 1986); United States v. Maddox, 944 F.2d 1223 (6<sup>th</sup> Cir. 1991) citing Ortiz, *supra*.

Respectfully submitted,

GREGORY G. LOCKHART  
United States Attorney

ROBERT C. BRICHLER (0017745)  
Assistant United States Attorney  
221 East Fourth Street, Suite 400  
Cincinnati, Ohio 45202  
(513) 684-3711

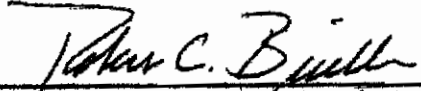
**CERTIFICATE OF SERVICE**

It is hereby certified that a copy of the foregoing was mailed on this 5<sup>th</sup> day of August, 2003, to:

William R. Gallagher  
114 East Eighth Street  
Cincinnati, Ohio 45202

Kenneth L. Lawson  
808 Elm St., Suite 100  
Cincinnati, Ohio 45202

Gregory A. Cohen  
114 East Eighth Street  
Cincinnati, Ohio 45202.

  
\_\_\_\_\_  
ROBERT C. BRICHLER (0017745)  
Assistant United States Attorney



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

UNITED STATES OF AMERICA : CR-1-02-157  
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V. : O R D E R  
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KAREEM COLE, ET AL. : J. Dlott

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On motion of Gregory G. Lockhart, United States Attorney for the Southern District of Ohio, filed in this matter on August 14, 2003,

And it appearing to the satisfaction of the Court:

1. That Steve Rennick, Jr. has been called to testify or provide other information at trial in United States District Court; and
2. That Steve Rennick, Jr. has refused to testify or provide other information on the basis of his privilege against self-incrimination; and
3. That in the judgment of the said United States Attorney, the testimony or other information from said Steve Rennick, Jr. may be necessary to the public interest; and
4. That the aforesaid Motion filed herein has been made with the approval of the Assistant Attorney General in charge of the Criminal Division of the Department of Justice, pursuant to

the authority vested in him by 18 U.S.C. § 6003 and 28 C.F.R. § 0.175.

NOW, THEREFORE, IT IS ORDERED pursuant to 18 U.S.C. § 6002 that the said Steve Rennick, Jr. give testimony or provide other information which he refuses to give or to provide on the basis of his privilege against self-incrimination as to all matters about which he may be interrogated at said trial or in any further proceedings resulting therefrom or ancillary thereto. Such testimony compelled under this Order (or any information directly or indirectly derived from such testimony or other information) may not be used against Steve Rennick, Jr. in any criminal case in federal or state court, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with this Order.

This Order shall become effective only if after the date of the Order the said Steve Rennick, Jr. refuses to testify or provide other information on the basis of his privilege against self-incrimination.

August 15, 2003  
DATE

Susan J. Dlott  
SUSAN J. DLOTT  
UNITED STATES DISTRICT COURT JUDGE

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

07/30/07 PM 4:13

UNITED STATES OF AMERICA	:	CR-1-02-157-3
	:	
	:	
v.	:	<u>PLEA AGREEMENT</u>
	:	
	:	
STEVEN RENNICK, SR.	:	J. Dlott

It is hereby agreed between Steven Rennick, Sr., individually, and through his attorney, William R. Gallagher, and the United States of America, by and through Robert C. Brichler, Assistant United States Attorney for the Southern District of Ohio, as follows:

1. The defendant shall enter a plea of guilty to Count 1 of the Indictment filed against him, charging him with conspiracy to distribute in excess of 100 kilograms of marihuana, in violation of 21 U.S.C. §§ 846 & 841(a)(1) and (b)(1)(B).

2. The defendant understands that the punishment prescribed by law for the offense charged in Count 1 of the Indictment is a mandatory minimum of 5 to 40 years in prison, a fine of up to \$2,000,000.00, a 4 year term of supervised release, and a \$100.00 special assessment.

3. In return for said plea of guilty and contingent upon the defendant's admission of guilt, the United States Attorney

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for the Southern District of Ohio agrees to dismiss the remaining counts of the Indictment.

4. The government agrees to recommend to the Court that the base offense level for purposes of the federal sentencing guidelines is level 26. This recommendation is based upon the defendant's involvement with in excess of 100 kilograms of marihuana. By signing this plea agreement the defendant agrees and admits to said involvement. It is further recommended that the defendant be given a 3 point reduction for acceptance of responsibility.

5. The government agrees to file, upon the defendant's substantial assistance, a motion with the court for a downward departure from the guideline sentence, stating that the defendant has made a good faith effort to provide substantial assistance in the investigation and prosecution of other persons who have committed offenses. The filing of such motion shall be in the sole discretion of the United States Attorney for the Southern District of Ohio. If such a motion is filed, the defendant understands that it is not binding on the court. Such a motion is authorized by § 5K1.1 of the Sentencing Guidelines and 18 U.S.C. § 3553(e). If such motion is filed it will be in reliance on the defendant's continued cooperation. If the defendant should later refuse to testify the government may, at the governments' option, petition the court to set aside the

defendant's sentence and sentence him without a downward departure or seek to set aside the defendant's plea and reinstate the Indictment.

6. The defendant understands that the Probation Department will conduct a pre-sentence investigation and will recommend to the Court a sentencing guideline range. The defendant understands that the Probation Department's recommendations are not binding on the Court and the terms of this Plea Agreement are not binding upon the Court or Probation Department. The defendant understands that if the Court does not follow the recommendations contained in this plea agreement, he does not have the right to withdraw his plea of guilty.

7. The defendant understands that there is no agreement concerning his ultimate sentence. The defendant could receive the maximum penalty provided by law.

8. Prior to or at the time of sentencing, the defendant will pay to the Clerk of the United States District Court a special assessment in the amount of \$100.00 as required by Title 18, United States Code, Section 3013.

9. This is the entire Plea Agreement. There are no other provisions or understandings.

GREGORY G. LOCKHART  
United States Attorney

8-18-03  
DATE

Robert C. Brichler  
ROBERT C. BRICHLER  
Assistant U.S. Attorney

8/18/03  
DATE

Steven Rennick, Sr.  
STEVEN RENNICK, SR.  
Defendant

8/18/03  
DATE

William R. Gallagher  
WILLIAM R. GALLAGHER  
Attorney for Defendant



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

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UNITED STATES OF AMERICA : CR-1-02-157-5  
:  
:  
v. : PLEA AGREEMENT  
:  
:  
MATTHEW ELLIOT : J. Dlott

- - - - -

It is hereby agreed between Matthew Elliot, individually, and through his attorney, Kenneth L. Lawson, and the United States of America, by and through Robert C. Brichler, Assistant United States Attorney for the Southern District of Ohio, as follows:

1. The defendant shall enter a plea of guilty to Count 7 of the Indictment filed against him, charging him with possession with intent to distribute marihuana, in violation of 21 U.S.C. §§ 846 & 841(a)(1) and (b)(1)(D).

2. The defendant understands that the punishment prescribed by law for the offense charged in Count <sup>RCB KHE</sup> 7 of the Indictment is 0 to 5 years in prison, a fine of up to \$250,000.00, a 3 year term of supervised release, and a \$100.00 special assessment.

3. In return for said plea of guilty and contingent upon the defendant's admission of guilt, the United States Attorney for the Southern District of Ohio agrees to dismiss the remaining counts of the Indictment.



4. The government agrees to recommend to the Court that the base offense level for purposes of the federal sentencing guidelines is level 18. This recommendation is based upon what the government believes the readily provable facts concerning the defendant's involvement with marihuana would be. By signing this plea agreement the defendant agrees and admits to said involvement. It is further recommended that the defendant be given a 3 point reduction for acceptance of responsibility.

5. The government agrees to file, upon the defendant's substantial assistance, a motion with the court for a downward departure from the guideline sentence, stating that the defendant has made a good faith effort to provide substantial assistance in the investigation and prosecution of other persons who have committed offenses. The filing of such motion shall be in the sole discretion of the United States Attorney for the Southern District of Ohio. If such a motion is filed, the defendant understands that it is not binding on the court. Such a motion is authorized by § 5K1.1 of the Sentencing Guidelines and 18 U.S.C. § 3553(e). If such motion is filed it will be in reliance on the defendant's continued cooperation. If the defendant should later refuse to testify the government may, at the governments' option, petition the court to set aside the defendant's sentence and sentence him without a downward

departure or seek to set aside the defendant's plea and reinstate the Indictment.

6. The defendant understands that the Probation Department will conduct a pre-sentence investigation and will recommend to the Court a sentencing guideline range. The defendant understands that the Probation Department's recommendations are not binding on the Court and the terms of this Plea Agreement are not binding upon the Court or Probation Department. The defendant understands that if the Court does not follow the recommendations contained in this plea agreement, he does not have the right to withdraw his plea of guilty.

7. The defendant understands that there is no agreement concerning his ultimate sentence. The defendant could receive the maximum penalty provided by law.

8. Prior to or at the time of sentencing, the defendant will pay to the Clerk of the United States District Court a special assessment in the amount of \$100.00 as required by Title 18, United States Code, Section 3013.

9. This is the entire Plea Agreement. There are no other provisions or understandings.

GREGORY G. LOCKHART  
United States Attorney

8-18-03  
DATE

Robert C. Brichler  
ROBERT C. BRICHLER  
Assistant U.S. Attorney

8/18/03  
DATE

Matthew C. Elliot  
MATTHEW ELLIOT  
Defendant

8/18/07  
DATE

Kenneth L. Lawson  
KENNETH L. LAWSON  
Attorney for Defendant

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

07/30/2007 11:31

UNITED STATES OF AMERICA : CR-1-02-157-7  
:  
:  
v. : PLEA AGREEMENT  
:  
:  
WAYNE BENJAMIN : J. Dlott

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It is hereby agreed between Wayne Benjamin, individually, and through his attorney, Gregory A. Cohen, and the United States of America, by and through Robert C. Brichler, Assistant United States Attorney for the Southern District of Ohio, as follows:

1. The defendant shall enter a plea of guilty to Count 1 of the Superseding Bill of Information to be filed against him, charging him with the distribution of marihuana, in violation of 21 U.S.C. §§ 846 & 841(a)(1) and (b)(1)(D).

2. The defendant understands that the punishment prescribed by law for the offense charged in Count 1 of the <sup>Information RC 3</sup> ~~Indictment~~ is 0 to 5 years in prison, a fine of up to \$250,000.00, a 3 year term of supervised release, and a \$100.00 special assessment.

3. In return for said plea of guilty and contingent upon the defendant's admission of guilt, the United States Attorney for the Southern District of Ohio agrees to dismiss the Indictment previously filed against him.

4. The government agrees to recommend to the Court that the base offense level for purposes of the federal sentencing guidelines is level 8. This recommendation is based upon what the government believes the readily provable facts concerning the defendant's involvement with marihuana would be. By signing this plea agreement the defendant agrees and admits to said involvement. It is further recommended that the defendant be given a 2 point reduction for acceptance of responsibility.

5. The government agrees to file, upon the defendant's substantial assistance, a motion with the court for a downward departure from the guideline sentence, stating that the defendant has made a good faith effort to provide substantial assistance in the investigation and prosecution of other persons who have committed offenses. The filing of such motion shall be in the sole discretion of the United States Attorney for the Southern District of Ohio. If such a motion is filed, the defendant understands that it is not binding on the court. Such a motion is authorized by § 5K1.1 of the Sentencing Guidelines and 18 U.S.C. § 3553(e). If such motion is filed it will be in reliance on the defendant's continued cooperation. If the defendant should later refuse to testify the government may, at the governments' option, petition the court to set aside the defendant's sentence and sentence him without a downward

departure or seek to set aside the defendant's plea and reinstate the Indictment.

6. The defendant understands that the Probation Department will conduct a pre-sentence investigation and will recommend to the Court a sentencing guideline range. The defendant understands that the Probation Department's recommendations are not binding on the Court and the terms of this Plea Agreement are not binding upon the Court or Probation Department. The defendant understands that if the Court does not follow the recommendations contained in this plea agreement, he does not have the right to withdraw his plea of guilty.

7. The defendant understands that there is no agreement concerning his ultimate sentence. The defendant could receive the maximum penalty provided by law.

8. Prior to or at the time of sentencing, the defendant will pay to the Clerk of the United States District Court a special assessment in the amount of \$100.00 as required by Title 18, United States Code, Section 3013.

9. This is the entire Plea Agreement. There are no other provisions or understandings.

GREGORY G. LOCKHART  
United States Attorney

8-18-03  
DATE

Robert C. Brichler  
ROBERT C. BRICHLER  
Assistant U.S. Attorney

8-18-03  
DATE

Wayne Benjamin  
WAYNE BENJAMIN  
Defendant

8/18/03  
DATE

Gregory A. Cohen  
GREGORY A. COHEN  
Attorney for Defendant



1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF OHIO

3 WESTERN DIVISION

4 UNITED STATES OF AMERICA, : CRIMINAL ACTION CR-1-02-157  
 5 :  
 6 Plaintiff, : Cincinnati, Ohio  
 7 : Monday, August 18, 2003  
 8 -vs- :  
 9 :  
 10 STEVEN RENNICK, SR.; MATTHEW : Guilty Pleas  
 11 ELLIOT; and WAYNE BENJAMIN, :  
 12 :  
 13 Defendants. : 11:45 a.m.

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13 For the Plaintiff: Robert Brichler, Esq.  
 14 Anthony Springer, Esq.  
 15 Asst. U.S. Attorney  
 16 Atrium II, Suite 400  
 221 East Fourth Street  
 Cincinnati, Ohio 45202

17 For the Defendants: William Gallagher, Esq.  
 18 (Rennick) Arenstein & Gallagher  
 114 East Eighth Street  
 Cincinnati, Ohio 45202

19 (Elliot) Kenneth L. Lawson, Esq.  
 20 Kenneth L. Lawson & Associates  
 21 The Kroger Building, Suite 1575  
 Cincinnati, Ohio 45202

22 (Benjamin) Gregory A. Cohen, Esq.  
 23 The Citadel  
 114 East Eighth Street  
 Cincinnati, Ohio 45202

24  
 25 Courtroom Deputy: Steve Snyder  
 Court Reporter: Betty Schwab

#145

PROCEEDINGS

THE COURTROOM DEPUTY: Case is CR-1-02-157,  
defendant number three, United States of America v. Steven  
Rennick, Sr.; defendant number five, United States of  
America v. Matthew Elliot; and defendant number seven,  
United States of America v. Wayne Benjamin.

Will the parties please step to the podium?

MR. BRICHLER: Are you going to go right to left?

THE COURT: I'm going to go left to right.

Mr. Gallagher, you have got -- Mr. Gallagher, you  
have Mr. Rennick, Sr.?

MR. GALLAGHER: Yes, Your Honor.

THE COURT: All right. And, Mr. Lawson, you have  
got Mr. Elliot?

MR. LAWSON: That is correct, Judge.

THE COURT: And, Mr. Cohen, you have got  
Mr. Benjamin?

MR. COHEN: Yes, Your Honor.

THE COURT: That's fine. All right. Will  
counsel please enter their appearances for the record?

MR. GALLAGHER: Your Honor, William Gallagher on  
behalf of Steve Rennick, Sr.

MR. LAWSON: Kenneth Lawson on behalf of Matthew  
Elliot, Your Honor.

MR. COHEN: Gregory Cohen on behalf of Wayne

1 Benjamin, Your Honor.

2 MR. BRICHLER: Robert Brichler and Anthony  
3 Springer for the United States. Thank you for your  
4 patience this morning.

5 THE COURT: Thank you all for working together on  
6 this.

7 Are you Steven Rennick, Sr., sir?

8 DEFENDANT RENNICK: Yes, ma'am.

9 THE COURT: And are you represented in this  
10 proceeding by William Gallagher, an attorney who is present  
11 here in court with you today?

12 DEFENDANT RENNICK: Yes, ma'am.

13 THE COURT: All right. And, sir, are you Matthew  
14 Elliot?

15 DEFENDANT ELLIOT: Yes, ma'am.

16 THE COURT: And are you represented in this  
17 proceeding by Kenneth Lawson, an attorney who is present  
18 here in court with you today?

19 DEFENDANT ELLIOT: Yes, ma'am.

20 THE COURT: All right. And, sir, are you Wayne  
21 Benjamin?

22 DEFENDANT BENJAMIN: Yes, ma'am.

23 THE COURT: And are you represented in this  
24 proceeding by Gregory Cohen, an attorney who is present  
25 here in court with you today?

1 DEFENDANT BENJAMIN: Yes, ma'am.

2 THE COURT: All right. Mr. Brichler, what's the  
3 charge in this proceeding?

4 MR. BRICHLER: Your Honor --

5 THE COURT: Or what are the charges, I guess?

6 MR. BRICHLER: With respect to Mr. Rennick, Sr.,  
7 Your Honor, it's my understanding that he is appearing here  
8 this morning with his attorney and he wishes to seek leave  
9 of this Court to withdraw his plea of not guilty to count  
10 one of the indictment, conspiracy count, and enter a plea  
11 of guilty.

12 With respect to Mr. Elliot, it's my understanding  
13 that he and his attorney would seek leave of Court to  
14 withdraw his plea of not guilty previously entered to count  
15 seven and to enter a plea of guilty to count seven, which  
16 charges him with possession with intent to distribute  
17 marijuana.

18 And the United States proposes to file a bill of  
19 information charging Mr. Wayne Benjamin in a superseding  
20 bill of information charging him with one count of  
21 distribution of marijuana in violation of federal law.

22 THE COURT: Thank you, Mr. Brichler.

23 Mr. Snyder, would you please swear the  
24 defendants?

25 (Defendants sworn by the courtroom deputy.)

1 THE COURT: Mr. Rennick, did you say "I do"?

2 DEFENDANT RENNICK: Yes, ma'am.

3 THE COURT: Gentlemen, do you understand that  
4 you're now under oath and that, if you give false answers  
5 to any of my questions, you may be charged with perjury or  
6 making a false statement?

7 DEFENDANT RENNICK: Yes, ma'am.

8 DEFENDANT ELLIOT: Yes, ma'am.

9 DEFENDANT BENJAMIN: Yes, ma'am.

10 THE COURT: All right. Would you -- let's start  
11 with -- we'll go left to right, my left. Let's start with  
12 Mr. Rennick, Sr.

13 Would you please state your full name, sir?

14 DEFENDANT RENNICK: Steven Michael Rennick, Sr.

15 THE COURT: And how old are you?

16 DEFENDANT RENNICK: 55.

17 THE COURT: Okay. And how far did you go in  
18 school?

19 DEFENDANT RENNICK: I finished the ninth grade,  
20 and I finished my GED in the service, in the Army.

21 THE COURT: Have you ever been treated for any  
22 mental illness or addiction to narcotics of any kind?

23 DEFENDANT RENNICK: Yes.

24 THE COURT: Okay. What? When and what?

25 DEFENDANT RENNICK: PTSD, flashbacks from

1 Vietnam.

2 THE COURT: And are you still under treatment for  
3 that?

4 DEFENDANT RENNICK: Yes.

5 THE COURT: You're taking some kind of  
6 medication?

7 DEFENDANT RENNICK: Yes, ma'am.

8 THE COURT: Do you know what medication that is?

9 DEFENDANT RENNICK: No.

10 THE COURT: Is it an antidepressant?

11 DEFENDANT RENNICK: Yes.

12 THE COURT: Or antianxiety? You have taken it  
13 for a long time?

14 DEFENDANT RENNICK: About two years.

15 THE COURT: Have you taken any narcotic drugs or  
16 other medicine or pills or consumed any alcoholic beverages  
17 in the past 24 hours?

18 DEFENDANT RENNICK: No, ma'am.

19 THE COURT: Mr. Gallagher, do you have any doubt  
20 as to the competency of Mr. Rennick, Sr. to answer to the  
21 indictment at this time?

22 MR. GALLAGHER: No, Your Honor.

23 THE COURT: Am I correct, Mr. Brichler, that is  
24 an indictment for the first two, right?

25 MR. BRICHLER: That is correct, Your Honor.



1 THE COURT: All right. Then let me move on to  
2 Mr. Elliot. Would you please state your full name, sir?

3 DEFENDANT ELLIOT: Matthew Alton Elliot.

4 THE COURT: And how old are you?

5 DEFENDANT ELLIOT: 36.

6 THE COURT: How far did you go in school?

7 DEFENDANT ELLIOT: To the twelfth grade.

8 THE COURT: Have you ever been treated for any  
9 mental illness or addiction to narcotics of any kind?

10 DEFENDANT ELLIOT: No, ma'am.

11 THE COURT: Have you taken any narcotic drugs,  
12 medicine, pills, or consumed any alcoholic beverages in the  
13 past 24 hours?

14 DEFENDANT ELLIOT: No.

15 THE COURT: Okay. Mr. Lawson, do you have any  
16 doubt as to the competency of Mr. Elliot to answer to the  
17 indictment at this time?

18 MR. LAWSON: No, Your Honor, not at all.

19 THE COURT: All right. Then I'll move on to  
20 Mr. Benjamin. Would you please state your full name, sir?

21 DEFENDANT BENJAMIN: Wayne Keith Benjamin.

22 THE COURT: And how old are you?

23 DEFENDANT BENJAMIN: 37.

24 THE COURT: How far did you go in school?

25 DEFENDANT BENJAMIN: I graduated high school.



1 THE COURT: Have you ever been treated for any  
2 mental illness or addiction to narcotics of any kind?

3 DEFENDANT BENJAMIN: No.

4 THE COURT: Have you taken any narcotic drugs,  
5 medicine, pills, or consumed any alcoholic beverages in the  
6 past 24 hours?

7 DEFENDANT BENJAMIN: Yes.

8 THE COURT: Okay. What have you had?

9 DEFENDANT BENJAMIN: I'm on hydrocodone for my  
10 back.

11 THE COURT: Okay. Is that some kind of a pain  
12 killer?

13 DEFENDANT BENJAMIN: Yes.

14 THE COURT: How long have you been taking that?

15 DEFENDANT BENJAMIN: Just when I need it, on and  
16 off for about five months.

17 THE COURT: And do you feel that it alters your  
18 ability to think in any way?

19 DEFENDANT BENJAMIN: No. No.

20 THE COURT: All right. Mr. Cohen, do you have  
21 any doubt as to the competency of the defendant to answer  
22 to the superseding bill of information at this time?

23 MR. COHEN: There are no doubts, Your Honor. We  
24 discussed this matter thoroughly.

25 THE COURT: Then let me start, because we have

1 got an information with Mr. Benjamin, let me ask you a few  
2 more questions.

3 First, I'll direct one question to all three of  
4 you. Have all of you been furnished with a copy of the  
5 charges against you?

6 DEFENDANT RENNICK: Yes, ma'am.

7 DEFENDANT ELLIOT: Yes, ma'am.

8 DEFENDANT BENJAMIN: Yes, ma'am.

9 THE COURT: And have you read the charge which,  
10 in the case of Mr. Rennick and Mr. Elliot, is called an  
11 indictment and Mr. Benjamin's is called a bill of  
12 information?

13 DEFENDANT BENJAMIN: Yes, I have.

14 DEFENDANT RENNICK: Yes, ma'am.

15 DEFENDANT BENJAMIN: Yes, ma'am.

16 THE COURT: Have you discussed these charges with  
17 your lawyers?

18 DEFENDANT RENNICK: Yes, ma'am.

19 DEFENDANT ELLIOT: Yes, ma'am.

20 DEFENDANT BENJAMIN: Yes, ma'am.

21 THE COURT: Mr. Benjamin, you have a  
22 constitutional right to be charged by an indictment of a  
23 grand jury, but you can waive that right and consent to be  
24 charged by the superseding information of the United States  
25 attorney, which means that, instead of an indictment, this

1 felony charge against you has been brought by the United  
2 States attorney by the filing of an information. Unless  
3 you waive indictment, you may not be charged with a felony  
4 unless a grand jury finds by return of an indictment that  
5 there is probable cause to believe that a crime has been  
6 committed and that you committed it. If you do not waive  
7 indictment, the government may present the case to the  
8 grand jury and request it to indict you.

9 A grand jury is composed at least 16 and not more  
10 than 23 persons, at least 12 of whom must find that there  
11 is probable cause to believe that a crime has been  
12 committed and that you committed the crime in order to  
13 return an indictment against you. The grand jury might or  
14 might not indict you.

15 If you waive indictment by the grand jury, this  
16 case will proceed against you on the information just as  
17 though you had been indicted.

18 Mr. Benjamin, do you understand your right to an  
19 indictment by a grand jury?

20 DEFENDANT BENJAMIN: Yes.

21 THE COURT: Have any threats or promises been  
22 made to induce you to waive indictment?

23 DEFENDANT BENJAMIN: No.

24 THE COURT: If you choose to be charged by  
25 information, you do not give up at this time in the

1 proceeding any of your other constitutional rights. You  
2 still have a right to plead not guilty, be tried by a jury,  
3 be represented by counsel through the trial, face the  
4 prosecution witnesses and have the government prove the  
5 charges against you beyond a reasonable doubt.

6 Do you understand that?

7 DEFENDANT BENJAMIN: Yes.

8 THE COURT: Mr. Cohen, have you explained to  
9 Mr. Benjamin his right to have the facts of this case  
10 presented to a grand jury?

11 MR. COHEN: I have, Your Honor.

12 THE COURT: And based on your discussion with  
13 him, do you believe that Mr. Benjamin understands the  
14 nature and meaning of an information as opposed to an  
15 indictment?

16 MR. COHEN: Judge, in this instance, it's an  
17 information that supersedes the indictment in which he was  
18 named. He understands the entire process, having  
19 experienced it during the course of this case. So I  
20 believe he has a full understanding.

21 THE COURT: Mr. Benjamin, do you wish to waive  
22 your right to indictment by a grand jury and choose to be  
23 charged by the filing of a superseding information?

24 DEFENDANT BENJAMIN: Yes.

25 THE COURT: I believe Mr. Brichler is handing

1 Mr. Cohen the waiver. And I'll ask Mr. Cohen and  
2 Mr. Benjamin to examine it, and, Mr. Cohen, explain it to  
3 the defendant and then have him sign it.

4 MR. COHEN: Your Honor, we previously discussed  
5 this document and have executed it as required and would  
6 proffer it to the Court.

7 THE COURT: Thank you.

8 Upon execution of the waiver, the Court  
9 determines that the defendant Wayne Benjamin has  
10 competently exercised his right to waive the presentation  
11 of the facts of this case to a grand jury and has made the  
12 necessary waiver in open court. The Court finds that the  
13 waiver of indictment is knowingly and voluntarily made, and  
14 it is accepted.

15 The clerk will file the information and waiver.

16 Mr. Cohen and Mr. Benjamin, do you want the clerk  
17 to read the information, or will you waive the reading of  
18 the superseding information?

19 MR. COHEN: We will waive that reading, Your  
20 Honor.

21 THE COURT: All right. Then let me ask each of  
22 you now how do you plead.

23 Mr. Rennick, I'll start with you. How do you  
24 plead to the offense charged in count one of the  
25 indictment, guilty or not guilty?

1           DEFENDANT RENNICK: Guilty.

2           THE COURT: Mr. Elliot, how do you plead to the  
3 offense charged in count seven of the indictment, guilty or  
4 not guilty?

5           DEFENDANT ELLIOT: Guilty.

6           THE COURT: And, Mr. Benjamin, how do you plead  
7 to the offense charged in count one of the superseding  
8 information, guilty or not guilty?

9           DEFENDANT BENJAMIN: Guilty.

10          THE COURT: Before accepting your pleas of  
11 guilty, gentlemen, the Court must determine that they're  
12 made voluntarily with a full understanding of the nature of  
13 the charges and the consequences of the plea, and, in order  
14 to make that determination, I need to ask you several  
15 questions.

16          First, this question is directed to all of you.  
17 Do you believe that you understand the charges against you?

18          DEFENDANT RENNICK: Yes, I do.

19          DEFENDANT ELLIOT: Yes.

20          DEFENDANT BENJAMIN: Yes.

21          THE COURT: Do you believe that your lawyer is  
22 fully informed about the facts and circumstances on which  
23 these charges are based?

24          DEFENDANT RENNICK: Yes, ma'am.

25          DEFENDANT ELLIOT: Yes, ma'am.



1 DEFENDANT BENJAMIN: Yes, ma'am.

2 THE COURT: Are you satisfied with your lawyer's  
3 advice and representation?

4 DEFENDANT RENNICK: Yes, ma'am.

5 DEFENDANT ELLIOT: Yes, ma'am.

6 DEFENDANT BENJAMIN: Yes, ma'am.

7 THE COURT: Then next let me discuss with you the  
8 consequences of the plea. Mr. Rennick, do you understand  
9 that the maximum penalty under count one is a term of up to  
10 40 years imprisonment, a fine of up to two million dollars,  
11 a four-year term of supervised release and a mandatory  
12 assessment of one hundred dollars?

13 DEFENDANT RENNICK: Yes, ma'am.

14 THE COURT: Mr. Brichler, is there any  
15 restitution or forfeiture in this case?

16 MR. BRICHLER: Your Honor, the only forfeiture  
17 was a truck that was involved, and that's been taken care  
18 of in the county system. So we're not seeking anything  
19 further.

20 THE COURT: Thank you.

21 Mr. Rennick, do you understand that, if the Court  
22 accepts your plea of guilty, it can impose the maximum  
23 penalty?

24 DEFENDANT RENNICK: Yes, ma'am.

25 THE COURT: Do you have any other state or



1 federal charges pending against you?

2 DEFENDANT RENNICK: No, ma'am.

3 THE COURT: Do you understand -- let me go on.  
4 I'm sorry. Let me go on to Mr. Elliot.

5 Mr. Elliot, do you understand that the maximum  
6 penalty under count seven is a term of up to five years  
7 imprisonment, a fine of up to \$250,000, a one hundred  
8 dollar special assessment, and three years of supervised  
9 release?

10 DEFENDANT ELLIOT: Yes, ma'am.

11 MR. LAWSON: Judge, with respect to that, if you  
12 look at count one and then look at -- I mean, if you look  
13 at paragraph one and paragraph two, my copy shows in  
14 paragraph two --

15 THE COURT: Wait. What document are you  
16 referring to?

17 MR. LAWSON: The plea agreement.

18 THE COURT: I don't have that in front of me.

19 MR. LAWSON: Okay. I didn't know if you're  
20 looking at that or not.

21 THE COURT: No. I'm just looking at the statute.

22 MR. LAWSON: The plea agreement is going to be  
23 corrected. Okay.

24 THE COURT: Am I incorrect on the maximum  
25 penalty?

1 MR. LAWSON: No, you're not.

2 MR. BRICHLER: There was an error made on the  
3 plea agreement, Your Honor.

4 THE COURT: All right. Do you want to correct it  
5 now, Mr. Lawson?

6 MR. LAWSON: No, Judge. We can continue.

7 THE COURT: Okay. Let's see. I'm not sure,  
8 Mr. Elliot, did you answer that question?

9 DEFENDANT ELLIOT: Yes, ma'am.

10 THE COURT: All right. Do you understand that,  
11 if the Court accepts your plea of guilty, it can impose the  
12 maximum penalty?

13 DEFENDANT ELLIOT: Yes, ma'am.

14 THE COURT: Do you have any other state or  
15 federal charges pending against you?

16 DEFENDANT ELLIOT: No, ma'am.

17 THE COURT: Then let me move on to Mr. Benjamin.  
18 Do you understand, Mr. Benjamin, that the maximum penalty  
19 under count one of the superseding information is a term of  
20 up to five years imprisonment, a fine of up to \$250,000,  
21 supervised release for up to three years, and a one hundred  
22 dollars special assessment?

23 DEFENDANT BENJAMIN: Yes, ma'am.

24 THE COURT: Do you understand that, if the Court  
25 accepts your plea of guilty, it can impose this maximum

1 penalty?

2 DEFENDANT BENJAMIN: Yes, ma'am.

3 THE COURT: Do you have any other state or  
4 federal charges pending against you?

5 DEFENDANT BENJAMIN: No, ma'am.

6 THE COURT: All right. Then, gentlemen, let me  
7 ask all of you: Do you understand that, if your plea of  
8 guilty is accepted, the Court can impose the same penalty  
9 as though you pleaded not guilty, stood trial and were  
10 convicted by a jury?

11 DEFENDANT RENNICK: Yes, ma'am.

12 DEFENDANT ELLIOT: Yes, ma'am.

13 DEFENDANT BENJAMIN: Yes, ma'am.

14 THE COURT: Do you understand that the offense to  
15 which you're pleading guilty is a felony offense and that,  
16 if your plea is accepted, you will be adjudged guilty of  
17 that offense and that that adjudication may deprive you of  
18 valuable civil rights, such as the right to vote, the right  
19 to hold public office, the right to serve on a jury, and  
20 the right to possess any kind of firearm?

21 DEFENDANT RENNICK: Yes, ma'am.

22 DEFENDANT ELLIOT: Yes, ma'am.

23 DEFENDANT BENJAMIN: Yes, ma'am.

24 THE COURT: Next then I want to talk with you  
25 about what we called supervised release. Supervised

1 release is a period of supervision by the United States  
2 Probation Office that follows a period of imprisonment  
3 under terms and conditions imposed by this Court. A  
4 violation of any of those terms and conditions may lead to  
5 an additional period of imprisonment for a term up to the  
6 full time of the period of supervised release without  
7 credit for any time that you already served under  
8 supervised release.

9 Do you understand that?

10 DEFENDANT RENNICK: Yes, ma'am.

11 DEFENDANT ELLIOT: Yes, ma'am.

12 DEFENDANT BENJAMIN: Yes, ma'am.

13 THE COURT: Do you understand that, if you  
14 receive a sentence of imprisonment of more than one year,  
15 you will also be sentenced to a term of supervised release  
16 and that the Court may, in any event, order a term of  
17 supervised release to follow any term of imprisonment?

18 DEFENDANT RENNICK: Yes, ma'am.

19 DEFENDANT ELLIOT: Yes, ma'am.

20 DEFENDANT BENJAMIN: Yes, ma'am.

21 THE COURT: Then next I want to talk with you  
22 about what we call Guideline sentencing. Under the  
23 Sentencing Reform Act of 1984, the United States Sentencing  
24 Commission has issued guidelines for judges to follow in  
25 determining the sentence in a criminal case. Have you and

1 your attorneys talked about how the Sentencing Commission  
2 Guidelines might apply to your case?

3 DEFENDANT RENNICK: Yes, ma'am.

4 DEFENDANT ELLIOT: Yes, ma'am.

5 DEFENDANT BENJAMIN: Yes, ma'am.

6 THE COURT: Do you understand that the Court will  
7 not be able to determine the Guideline sentence for your  
8 case until after the presentence report has been completed  
9 and you and the government have had an opportunity to  
10 challenge the facts and conclusions reported by the  
11 probation officer?

12 DEFENDANT RENNICK: Yes, ma'am.

13 DEFENDANT ELLIOT: Yes, ma'am.

14 DEFENDANT BENJAMIN: Yes, ma'am.

15 THE COURT: Mr. Snyder, do we have somebody from  
16 Probation here?

17 THE COURTROOM DEPUTY: No. I'll get somebody  
18 here.

19 THE COURT: Okay. And what about Pretrial as  
20 well?

21 MR. BRICHLER: I received reports this morning  
22 from the Pretrial Services, Your Honor.

23 THE COURTROOM DEPUTY: Katrina brought them by  
24 late last week.

25 THE COURT: Okay. Yes. I don't have them with

1 me.

2 We can proceed, gentlemen, if you're ready.

3 MR. LAWSON: We were just noting, Judge, that two  
4 of us did get the probation report, Pretrial Service  
5 report.

6 THE COURT: Okay. Who didn't get it?

7 Mr. Gallagher? Okay. We'll make sure that you get a copy.

8 Do you understand that the Court is not bound by  
9 any stipulation of facts between you and the government,  
10 and the Court may, with the aid of the presentence report,  
11 determine the facts relevant to sentencing?

12 DEFENDANT RENNICK: Yes, ma'am.

13 DEFENDANT ELLIOT: Yes, ma'am.

14 DEFENDANT BENJAMIN: Yes, ma'am.

15 THE COURT: Do you understand that, after it has  
16 been determined what guidelines apply to a case, the judge  
17 has the authority in some circumstances to impose a  
18 sentence that is either more severe or less severe than the  
19 sentence called for by the Guidelines?

20 DEFENDANT RENNICK: Yes, ma'am.

21 DEFENDANT ELLIOT: Yes, ma'am.

22 DEFENDANT BENJAMIN: Yes, ma'am.

23 THE COURT: Do you understand that you and the  
24 government have the right to appeal any sentence that I  
25 impose?



1 DEFENDANT RENNICK: Yes, ma'am.

2 DEFENDANT ELLIOT: Yes, ma'am.

3 DEFENDANT BENJAMIN: Yes, ma'am.

4 THE COURT: Do you understand that, if the  
5 minimum Guideline sentence is more than six months, the  
6 Court cannot place you on probation?

7 DEFENDANT RENNICK: Yes, ma'am.

8 DEFENDANT ELLIOT: Yes, ma'am.

9 DEFENDANT BENJAMIN: Yes, ma'am.

10 THE COURT: Do you understand that, even if the  
11 Court can place you on probation, it may or may not do so?

12 DEFENDANT RENNICK: Yes, ma'am.

13 DEFENDANT ELLIOT: Yes, ma'am.

14 DEFENDANT BENJAMIN: Yes, ma'am.

15 THE COURT: Then next, gentlemen, let me discuss  
16 with you your constitutional rights. Under the  
17 Constitution and laws of the United States, you have the  
18 right to stand on a plea of not guilty and be tried by a  
19 jury at a speedy and public trial. At that trial, you  
20 would have the right to the assistance of counsel and the  
21 right to confront and cross-examine the witnesses who  
22 testify against you. At that trial, you would be entitled  
23 to the issuance of subpoenas to compel the attendance of  
24 witnesses on your behalf. You would also have the right to  
25 refuse to testify yourself unless you voluntarily chose to



1 do so in your own defense. At that trial, you would be  
2 presumed innocent until such time, if ever, as the  
3 government established your guilt by competent evidence  
4 beyond a reasonable doubt.

5 Do you understand that, if you plead guilty, you  
6 give up all the rights I have just mentioned?

7 DEFENDANT RENNICK: Yes, ma'am.

8 DEFENDANT ELLIOT: Yes, ma'am.

9 DEFENDANT BENJAMIN: Yes, ma'am.

10 THE COURT: Do you understand that, if you plead  
11 guilty, there will not be a further trial of any kind in  
12 your case, so that by pleading guilty you are giving up the  
13 right to a trial?

14 DEFENDANT RENNICK: Yes, ma'am.

15 DEFENDANT ELLIOT: Yes, ma'am.

16 DEFENDANT BENJAMIN: Yes, ma'am.

17 THE COURT: If you plead guilty, do you  
18 understand that you will also have to waive your right not  
19 to incriminate yourself since I will have to ask you  
20 questions about what you did in order to satisfy myself  
21 that you are guilty as charged, and you will have to  
22 acknowledge your guilt?

23 DEFENDANT RENNICK: Yes, ma'am.

24 DEFENDANT ELLIOT: Yes, ma'am.

25 DEFENDANT BENJAMIN: Yes, ma'am.

1 THE COURT: Are you willing to waive and give up  
2 your right to a trial and all the other rights I have just  
3 discussed?

4 DEFENDANT RENNICK: Yes, ma'am.

5 DEFENDANT ELLIOT: Yes, ma'am.

6 DEFENDANT BENJAMIN: Yes, ma'am.

7 THE COURT: Then next let me inquire about a plea  
8 agreement, and you should understand that proper plea  
9 agreements are permissible and that you and all counsel  
10 have a duty to disclose the existence and terms of any such  
11 agreement.

12 Let me first ask the defendants and their  
13 counsel: Are there plea agreements in these cases?

14 MR. GALLAGHER: Yes, Your Honor, there is.

15 MR. LAWSON: Yes, Your Honor, on behalf of  
16 Mr. Elliot.

17 MR. COHEN: Yes, Your Honor.

18 THE COURT: Then, Mr. Brichler, I'm going to ask  
19 you to summarize the essential terms of the plea  
20 agreements.

21 MR. BRICHLER: Yes, Your Honor. May I have one  
22 moment?

23 THE COURT: Certainly. Take your time,  
24 Mr. Brichler.

25 MR. BRICHLER: Thank you, Your Honor.

1 THE COURT: Thank you, Mr. Brichler.

2 MR. BRICHLER: Your Honor, there are three plea  
3 agreements. They're all in writing, and I will summarize  
4 them as follows. All three defendants have agreed through  
5 their attorneys to enter pleas of guilty in this matter,  
6 Steve Rennick to count one of the indictment charging him  
7 with conspiracy to distribute in excess of 100 kilograms of  
8 marijuana; Mr. Elliot, with count seven of the indictment,  
9 which charges him with possession with intent to distribute  
10 marijuana; and with respect to Mr. Benjamin, to the  
11 superseding bill of information charging him with  
12 distribution of marijuana in violation of federal law.

13 Penalties are all outlined in the plea  
14 agreements, as the Court just mentioned on the record.

15 In return for these pleas of guilty, the United  
16 States attorney has agreed to dismiss the remaining counts  
17 of the indictment as they pertain to each defendant.

18 The government agrees to recommend to the Court  
19 that the base offense level for purposes of the Federal  
20 Sentencing Guidelines for Mr. Rennick is level 26, and that  
21 recommendation is based upon his involvement with in excess  
22 100 kilograms of marijuana. By signing the plea agreement,  
23 he agrees and admits to said involvement, and the  
24 government would further recommend that he be given a  
25 three-point adjustment for acceptance of responsibility.

1 With respect to Mr. Elliot, the government has  
2 agreed to recommend the base offense level for purposes of  
3 the Guidelines is level 18. That recommendation is based  
4 upon what the government believes the readily provable  
5 facts concerning his involvement with marijuana would be.  
6 By signing this plea agreement, the defendant has agreed  
7 and admitted to that involvement, and it is further to be  
8 recommended that he be given a three-point adjustment for  
9 acceptance of responsibility.

10 With respect to Mr. Benjamin, the government has  
11 agreed to recommend that his base offense level for  
12 purposes of the Guidelines is level eight. That  
13 recommendation is based upon what the government believes  
14 the readily provable facts concerning his involvement with  
15 marijuana would be. By signing the agreement he agrees and  
16 admits to that involvement, and in his case the  
17 recommendation for acceptance of responsibility would be  
18 two points since the base offense level is not greater than  
19 16.

20 THE COURT: Mr. Brichler, I take it with  
21 Mr. Benjamin the previous indictment will be dismissed and  
22 the superseding bill of information has been filed in its  
23 place?

24 MR. BRICHLER: That is correct, Your Honor.

25 THE COURT: All right.

1 MR. BRICHLER: With respect to each defendant,  
2 the government has agreed to file, upon the substantial  
3 assistance of any of the defendants, a motion with the  
4 Court for a downward departure from the Guideline sentence  
5 stating that they had made a good faith effort to provide  
6 substantial assistance, should they do so. They understand  
7 that the filing of such motion shall be within the sole  
8 discretion of United States attorney, and, if it is filed,  
9 the defendants understand it is not binding on the Court.  
10 The motion would be authorized by Section 5K1.1 of the  
11 Guidelines and 18 United States Code Section 3553.

12 If the government does file a motion for a  
13 downward departure, it would be in reliance on their  
14 continued cooperation, and, should they later refuse to  
15 testify, the government at it's option may petition the  
16 Court to resentence them without the 5K motion or to  
17 reinstate the indictment.

18 The defendants all understands the probation  
19 department will conduct a presentence investigation and  
20 will recommend to the Court a Sentencing Guideline range.  
21 The defendants understand the probation department's  
22 recommendations are not binding on the Court, and the terms  
23 of the plea agreement are not binding on the Court or the  
24 probation department.

25 The defendants understand that, if the Court does

1 not follow the recommendations in these plea agreements,  
2 that the Court -- or that the defendant does not have the  
3 right to withdraw his plea of guilty.

4 The defendants understand there is no agreement  
5 concerning their ultimate sentence. They could receive the  
6 maximum penalty provided by law.

7 And they have all agreed to pay the one hundred  
8 dollar special assessment.

9 This is the entire plea agreement with respect to  
10 each defendant. There are no other provisions or  
11 understandings.

12 Mr. Rennick has signed the plea agreement,  
13 Mr. Gallagher, his attorney, and myself on behalf of the  
14 United States. Mr. Elliot has signed his plea agreement.  
15 His attorney, Kenneth Lawson, has signed for him, and again  
16 I have signed on behalf of the United States. And  
17 Mr. Benjamin and Mr. Cohen, his attorney, have both signed  
18 the plea agreement, and I have signed on behalf of the  
19 United States.

20 THE COURT: Thank you, Mr. Brichler.

21 Mr. Gallagher, let me ask you: Is that your  
22 understanding of the plea agreement regarding Mr. Rennick?

23 MR. GALLAGHER: It is, Your Honor.

24 THE COURT: And, Mr. Rennick, is that your  
25 understanding of the plea agreement?



1           DEFENDANT RENNICK: Yes, Your Honor.

2           THE COURT: Has anyone made any other or  
3 different promise or assurance of any kind that induced you  
4 to plead guilty?

5           DEFENDANT RENNICK: No, ma'am.

6           THE COURT: Do you understand that any  
7 recommendation of sentence agreed to by your counsel and  
8 the government or any agreement by the government not to  
9 oppose the sentence requested by your attorney is not  
10 binding on the Court and that you might, on the basis of  
11 your guilty plea, receive a more severe sentence than  
12 requested or recommended?

13          DEFENDANT RENNICK: Yes, ma'am.

14          THE COURT: All right. Then let me move on to  
15 Mr. Lawson and Mr. Elliot. Mr. Lawson, is that your  
16 understanding of the plea agreement regarding Mr. Elliot?

17          MR. LAWSON: That is correct, Your Honor.

18          THE COURT: And, Mr. Elliot, is that your  
19 understanding of the plea agreement?

20          DEFENDANT ELLIOT: Yes, ma'am.

21          THE COURT: Has anyone made any other or  
22 different promise or assurance of any kind that induced you  
23 to plead guilty?

24          DEFENDANT ELLIOT: No, ma'am.

25          THE COURT: Do you understand that any



1 recommendation of sentence agreed to by your counsel and  
2 the government or any agreement by the government not to  
3 oppose the sentence requested by your attorney is not  
4 binding on the Court and that you might, on the basis of  
5 your guilty plea, receive a severe sentence that requested  
6 or recommended?

7 DEFENDANT ELLIOT: Yes.

8 THE COURT: All right. Then I'm going to move on  
9 to Mr. Cohen and Mr. Benjamin. Mr. Cohen, is that your  
10 understanding of the plea agreement regarding Mr. Benjamin?

11 MR. COHEN: It is, Your Honor.

12 THE COURT: Mr. Benjamin, is that your  
13 understanding of the plea agreement?

14 DEFENDANT BENJAMIN: Yes, ma'am.

15 THE COURT: Has anyone made may other or  
16 different promise or assurance of any kind that induced you  
17 to plead guilty?

18 DEFENDANT BENJAMIN: No, ma'am.

19 THE COURT: Do you understand that any  
20 recommendation of sentence agreed to by your counsel and  
21 the government or any agreement by the government not to  
22 oppose the sentence requested by your attorney is not  
23 binding on the Court and that you might, on the basis of  
24 your guilty plea, receive a more severe sentence than  
25 requested or recommended?

1           DEFENDANT BENJAMIN: Yes, ma'am.

2           THE COURT: Gentlemen, aside from the plea  
3 agreement or the plea agreements we have just discussed,  
4 has any person, including an officer or agent of the  
5 government or any of the lawyers in this case, promised or  
6 even suggested that you will receive a lighter sentence or  
7 any other form of leniency if you plead guilty?

8           DEFENDANT RENNICK: No, ma'am.

9           DEFENDANT ELLIOT: No, ma'am.

10          DEFENDANT BENJAMIN: No, ma'am.

11          THE COURT: Is your decision to plead guilty your  
12 own free and voluntary act?

13          DEFENDANT RENNICK: Yes, ma'am.

14          DEFENDANT ELLIOT: Yes, ma'am.

15          DEFENDANT BENJAMIN: Yes, ma'am.

16          THE COURT: Have you been subjected to any  
17 threats or force of any kind which caused you to plead  
18 guilty?

19          DEFENDANT RENNICK: No, ma'am.

20          DEFENDANT ELLIOT: No, ma'am.

21          DEFENDANT BENJAMIN: No, ma'am.

22          THE COURT: Mr. Brichler, I understand that you  
23 are going to testify to the facts in the matter.

24          MR. BRICHLER: Yes, Your Honor. I'll give a  
25 statement of facts.

1 THE COURT: All right.

2 MR. BRICHLER: Beginning in the spring of 2002,  
3 Steven Rennick, Sr., some of the previous co-defendants in  
4 this case, Kareem Cole and David Jones, Mr. Elliot,  
5 conspired to distribute marijuana in the Southern District  
6 of Ohio.

7 Just prior to October 15, 2002, Mr. Rennick  
8 traveled to Phoenix Arizona along with Kareem Cole in order  
9 to obtain a quantity of marijuana. On the morning -- early  
10 morning hours of October 15, 2002, Mr. Rennick and  
11 Mr. Kareem Cole returned from Phoenix, Arizona to  
12 Cincinnati, Ohio with approximately 500 pounds of marijuana  
13 in a truck that was operated by Mr. Rennick. The marijuana  
14 was unloaded at a warehouse in College Hill that is  
15 operated by Mr. Rennick and his family. They have a  
16 trucking business there.

17 Later that day, on October the 15th of 2002,  
18 Mr. Elliot responded to that garage where he and Eddie  
19 Moore, another co-defendant in this case, obtained  
20 approximately 50 pounds of marijuana, transported that  
21 marijuana to be broken down and distributed, some of it  
22 distributed almost immediately to customers, and the rest  
23 of the marijuana was stored at Mr. Moore's residence where  
24 it was later seized by the police.

25 During the course of the conspiracy, in July,

1 specifically July 19 of 2002, Wayne Benjamin, during that  
2 period of time, was working part time there for Mr. Rennick  
3 doing some painting on race cars and work around the  
4 warehouse. Mr. Benjamin received a pound of marijuana from  
5 Mr. Rennick, which he later distributed.

6 This all occurred in the Southern District of  
7 Ohio.

8 THE COURT: Thank you, Mr. Brichler.  
9 Gentlemen, did you hear what Mr. Brichler just  
10 said?

11 DEFENDANT RENNICK: Yes, ma'am.

12 DEFENDANT ELLIOT: Yes, ma'am.

13 DEFENDANT BENJAMIN: Yes, ma'am.

14 THE COURT: Is what he said correct?

15 DEFENDANT RENNICK: Yes, ma'am.

16 DEFENDANT ELLIOT: Yes, ma'am.

17 DEFENDANT BENJAMIN: Yes, ma'am.

18 THE COURT: Is it in any way incorrect?

19 DEFENDANT ELLIOT: No, ma'am.

20 DEFENDANT BENJAMIN: No, ma'am.

21 THE COURT: Mr. Rennick, we need something  
22 verbal. The court reporter has to take it down.

23 DEFENDANT RENNICK: No, ma'am.

24 THE COURT: Are you offering to plead guilty here  
25 today because you are in fact guilty of the offense charged

1 in count one of the indictment for Mr. Rennick, count seven  
2 of the indictment for Mr. Elliot, and count one of the  
3 superseding information for Mr. Benjamin?

4 DEFENDANT RENNICK: Yes, ma'am.

5 DEFENDANT ELLIOT: Yes, ma'am.

6 DEFENDANT BENJAMIN: Yes, ma'am.

7 THE COURT: Mr. Rennick, let me just make sure  
8 with regard to the maximum possible sentence in your case.  
9 I think I omitted saying that there is a mandatory minimum  
10 and that you understand that the sentence is five to 40  
11 years.

12 DEFENDANT RENNICK: Yes, ma'am.

13 THE COURT: All right. Gentlemen, in light of  
14 everything I have told you about your rights and in light  
15 of all my questions, I'll ask you again for the last time:  
16 How do you plead to the charge in count one of the  
17 information for Mr. Rennick -- I'm sorry -- of the  
18 indictment for Mr. Rennick, count seven of the indictment  
19 for Mr. Elliot, and count one of the information for  
20 Mr. Benjamin, guilty or not guilty? And let me have  
21 individual answers here.

22 DEFENDANT RENNICK: Guilty.

23 DEFENDANT ELLIOT: Guilty.

24 DEFENDANT BENJAMIN: Guilty.

25 THE COURT: The Court has observed the appearance

1 and responsiveness of the defendants in giving the answers  
2 to the questions asked. Based on these observations and  
3 the answers given, the Court is satisfied the defendants  
4 are in full possession of their faculties, they are not  
5 suffering from any apparent physical or mental illness, are  
6 not under the influence of narcotics or alcohol, understand  
7 the proceeding in which they are engaged, understand the  
8 nature and meaning of the charges and the consequences of  
9 their plea of guilty and are aware of all plea negotiations  
10 undertaken on their behalf.

11 The Court finds that the defendants are fully  
12 competent and capable of entering an informed plea, and the  
13 Court further finds that their plea of guilty is a knowing  
14 and voluntary plea supported by an independent basis in  
15 fact containing each of the essential elements of the  
16 offense charged.

17 Let me speak with you briefly about the  
18 presentence report. In accordance with Southern District  
19 of Ohio Rule 102, a written presentence report will be  
20 prepared by the probation office to assist the Court in  
21 sentencing. Rule 102 is a standing order of this Court  
22 which serves as the schedule for how the presentence  
23 investigation and report disclosure process will occur.  
24 The Court charges the probation officer with the duty to  
25 administer Rule 102, and the parties will cooperate with



1 the probation officer in that regard. The probation  
2 officer will provide all parties with the specific dates  
3 applicable in this case and can answer any questions there  
4 are about the rule.

5 The defendants will be asked to give information  
6 for the reports, and you may have your attorneys present if  
7 you wish. The defendants and their attorneys may make  
8 objections to the findings and conclusions of the probation  
9 officer in accordance with the rule, and at the sentencing  
10 hearing defendants and defendant's counsel may present  
11 evidence and arguments in support of the defendant's  
12 position with respect to any unresolved objections to the  
13 presentence report.

14 Mr. Brichler, what's the custodial status of the  
15 defendants?

16 MR. BRICHLER: Your Honor, all three defendants  
17 are free on bonds that were previously posted.

18 THE COURT: Okay. And what is the recommendation  
19 of the United States attorney concerning the custodial  
20 status?

21 MR. BRICHLER: We would have no objection to the  
22 continued bond being in effect pending the presentence  
23 report.

24 THE COURT: All right. Anything counsel wish to  
25 say in that regard? It's the Court's intention to follow



1 the recommendation of the United States attorney and the  
2 Pretrial Services.

3 MR. LAWSON: No, Your Honor.

4 THE COURT: All right. Then the Court will  
5 continue the bonds that were previously set subject to all  
6 the conditions previously imposed in those bonds.

7 Gentlemen, I want to remind you that failure to  
8 appear may constitute a separate distinct federal offense.  
9 If you don't appear in this court when summoned, you may be  
10 committing a separate federal offense, and in that event  
11 the Court will direct the United States attorney to submit  
12 the matter to the grand jury, and, if you're indicted and  
13 convicted on that offense, the Court will impose the  
14 maximum consecutive penalty provided by law.

15 I also want to remind you of all the conditions  
16 on which you were originally released. Those continue to  
17 apply, and the penalties for violating those conditions can  
18 be severe.

19 And, finally, it will be necessary for you to  
20 keep in close communication with your attorneys, because  
21 they will be notifying you of the time and date when you  
22 need to meet with the presentence investigation officer  
23 assigned to your case. Your attorney will also need to  
24 consult with you when he receives the presentence report  
25 concerning any errors or discrepancies that may occur in

1 the report. And, finally, your attorneys will notify you  
2 of the dates and times for your sentencing hearing.

3 Counsel, is there anything further that you  
4 desire to place upon the record before we close the hearing  
5 in this matter?

6 MR. BRICHLER: Nothing from the United States,  
7 Your Honor.

8 MR. GALLAGHER: Nothing, Your Honor.

9 MR. LAWSON: No, Your Honor.

10 MR. COHEN: Nothing, Your Honor.

11 THE COURT: Thank you, everyone.

12 PROCEEDINGS CONCLUDED AT 12:25 P.M.

13

14

15 C E R T I F I C A T E

16 I, Betty J. Schwab, the undersigned, do  
17 hereby certify that the foregoing is a correct  
18 transcript from the record of the proceedings in  
19 the above-entitled matter.

20

21

22

23

24

25

*Betty J. Schwab*  
BETTY J. SCHWAB, RPR  
Official Reporter

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

STEVE RENNICK, SR.,  
Defendant.

: CASE NO. 1:02-CR-157

: (Judge Susan Dlott)

:

:

:

: MOTION FOR DOWNWARD

: DEPARTURE

NOW COMES the Defendant, by and through counsel, and hereby moves this Honorable Court for a downward departure. Mr. Rennick respectfully requests this Court to review the background of Mr. Rennick in combination with his actions in cooperation with law enforcement, post plea, and the combined effect of this cooperation on his life and mental health status. In considering this information, it is clear the Sentencing Commission did not contemplate the facts and circumstances surrounding Mr. Rennick's case and require a departure downward from the proposed guideline application in this case.

In *Koon v. United States*, 518 U.S. 81, 116 S.Ct. 2035 (1996) the Supreme Court held that an appellate court owes substantial deference to the district court's decision to depart from the sentencing guidelines ranges and may not reverse unless the district court abuses its discretion. In reaffirming the judicial independence to grant departures, the Supreme Court explained that there is room under the guidelines for federal judges to exercise traditional sentencing discretion "to consider every convicted person as an individual and every case as

a unique study in the human failings that sometimes mitigate, sometimes magnify, the crime and the punishment to ensue." *Id* at 2053.

*Koon* explains that a departure potentially may be based upon any ground that the Sentencing Commission has not proscribed. Federal courts may not categorically rule out departure factors because that would usurp the Commission's policy-making authority. *Id* at 2050. Departure is fact based. "The relevant question, however, is not, as the Government says, "whether a particular factor is within the 'heartland' as a general proposition, but whether the particular factor is within the heartland given all the facts of the case." *Id* at 2047.

#### **Additional Authority for Departure**

##### **18 U.S.C. §3553-Imposition of a sentence**

(a) Factors to be considered in imposing a sentence. The Court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes of sentencing;

(2) (A) ....just punishment for the offense

(B)...adequate deterrence

(C)...protect the public...; and

(D)...provide the defendant with the needed educational and vocational training, medical care, or other correctional treatment.

(b) The Court shall impose a sentence f the kind, and within the range ...unless the court finds that there exists an aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into consideration by the Sentencing Commission in formulating the guidelines that should result in a sentence different from that described.

In addition, there is no limit placed upon the use of information available to the court for sentencing. 18 U.S.C. §3661 states: No limitation shall be placed upon the information concerning the background, character, and conduct of a person convicted of an offense which

a court of the United States may receive and consider for the purposes of imposing an appropriate sentence.

U.S.S.G. §5K1.1 permits departures from the Guideline's range only upon motion of the Government certifying the substantial assistance of the defendant. Counsel for the Government has informed defense counsel such a motion will not be filed in this case. The cooperation given by Rennick did not lead to the arrest and prosecution of anyone. These are normally the circumstances surrounding a §5K1.1 motion. Rennick suggests had he not been shot while cooperating, a drug transaction would have been completed. With that event, Rennick believes the Government would be taking the initiative and filing a departure request. A §5K1.1 motion is not the only authority under which departure is permitted.

U.S.S.G. §5K2.0 recognizes and encourages certain departures. In its policy statement it notes, there will be "Circumstances that may warrant departure from the guideline range pursuant to this provision cannot, by their very nature, be comprehensively listed and analyzed in advance." The Sentencing Commission also recognized the effect of a combination of factors might have. "The Commission does not foreclose the possibility of an extraordinary case that, because of a combination of such characteristics or circumstances, differs significantly from the "heartland" cases covered by the guidelines in a way that is important to the statutory purposes of sentencing, even though none of the characteristics or circumstances individually distinguishes the case..." Comments to U.S.S.G. §5K2.0.



Counsel submits the combination of factors warrant a departure in this case despite the Government's refusal to file a motion for departure pursuant to §5K1.1

Mr. Rennick's encouragement to his co-defendants to enter pleas as he did facilitated the Administration of Justice in this case. *United States v. Dethlefs*, 123 F.3d 39 (1<sup>st</sup> Cir. 1997). "...a defendant's timely entry of plea might facilitate the administration of justice in such an unusual way..." See also *United States v. Garcia*, 926 F.2d 125 (2<sup>nd</sup> Cir. 1991). (Where a guilty plea led others to plead guilty which "broke the log jam" in a multi-defendant case thus facilitating the administration of justice.)

Normally, military records must be extraordinary to warrant departure. Absent such circumstances, the Sentencing Commission discourages departure based upon military records. However, the service experiences of Mr. Rennick combined with recent events to remove this case from the "heartland" of case considered by the Guidelines.

First, it must be noted that immediately after entering a plea in this case, Mr. Rennick began cooperating with local law enforcement in the investigation of other people involved in narcotics trafficking. He was debriefed, signed to a contract as a confidential informant and provided information and intelligence to law enforcement.

At the time Mr. Rennick began cooperating, it was well known he suffered from Post Traumatic Stress Disorder (PTSD). He had been diagnosed by the United States Veterans Hospital staff as suffering from the traumatic events suffered in Vietnam during his service to his country. His experiences in war are outlined in the PSR at paragraphs 85, 92-94.

While these experiences alone may not warrant departure, the events that occurred while cooperating with law enforcement provide the combination of factors not contemplated by the Commission when devising the guidelines.

On the weekend of October 31, 2003 Mr. Rennick informed RENU that he believed he was being targeting for a shooting. He spoke to a supervisor with RENU and informed them that recent events surrounding his cooperation with RENU were discovered and Rennick was told he would be killed.

Mr. Rennick was not provided with additional protection. No visible signs were taken to ensure Mr. Rennick's safety. Mr. Rennick's pleas for assistance were not treated as posing a serious threat to his health and safety.

On Friday, November 7, 2003 Mr. Rennick was shot while at his place of employment on North Bend Road. He was approached from behind by a man who pointed a gun at Rennick and said, "You are a dead man." A short struggle ensued, and Rennick was shot in the chest and leg. Mr. Rennick was able to gain the notice of a neighboring business owner, who then called police.

Mr. Rennick was hospitalized, had surgery and has undergone physical therapy. Mr. Rennick's mental health has been affected by the additional trauma suffered November 7, 2003. His suffering from PTSD has been adversely affected by the shooting and medical treatment for the gunshots. (Letters from the V.A. are being obtained by Rennick and will be available at the sentencing hearing.)



It is true that a defendant is attempting to better his situation at sentencing by cooperating with police. There are certain inherent risks while cooperating with the police. However, it is clear that being shot in a murder attempt is not a situation contemplated by the Commission when designing Guideline assistance to the court.

The trauma suffered while working with the Government in this instance, in combination with earlier trauma suffered while serving this Government and the assistance provided in the administration of justice warrants a downward departure.

It is disturbing the prosecution refuses to file a request for departure in this matter. It could send a chilling message to other defendants contemplating cooperation. Unless there is a successful arrest and prosecution, a request for departure will not be filed. Defendants considering the option of cooperation may wonder what the response might be if they are injured or threatened while attempting to assist in the investigation of crimes committed by others. It makes good policy sense to recognize that no one deserves to be injured while attempting to assist the Government, and if such an extraordinary event occurs, there is recognition by the court when fashioning a sentence.

This Court has already conducted sentencing hearings for Kareem Cole and David Jones a/k/a Philip Davidson. Both men ran and directed this marijuana operation. One was a fugitive from justice at the time of his arrest. Both men were subject to deportation. Both received departure due to cooperation with the Government. Both received substantial departures in their sentences.

WHEREFORE, for the reasons set forth above, Steven Rennick respectfully requests this Court depart downward from the suggested guideline range to a range that satisfies all of the concerns and factors contemplated by statute.

Respectfully submitted,

S/William R. Gallagher

WILLIAM R. GALLAGHER (0064683)

Attorney for Defendant

Arenstein & Gallagher

The Citadel

114 East Eighth Street

Cincinnati, Ohio 45202

(513) 651-5666

Fax: (513) 651-5688

Email: WRG35@aol.com

CERTIFICATE OF SERVICE

I hereby certify that on January 26, 2004 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to Robert C. Brichler, Assistant U.S. Attorney.

S/William R. Gallagher

WILLIAM R. GALLAGHER (0064683)

Attorney for Defendant

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

<b>UNITED STATES OF AMERICA</b>	:	<b>Case No. CR-1-02-157</b>
<b>Plaintiff,</b>	:	<b>(Judge Dlott)</b>
	:	
<b>vs.</b>	:	
<b>STEVE RENICK</b>	:	<b>NOTICE OF</b>
	:	<b><u>APPEARANCE OF COUNSEL</u></b>
<b>Defendant.</b>		

Now comes Kenneth L. Lawson and notifies this Court that he has been retained to represent Steve Renick in the above-referenced case. William Gallagher is no longer the attorney of record for Mr. Renick.

Respectfully submitted,

/s/Kenneth L. Lawson (0042468)  
Kenneth L. Lawson & Associates  
The Dominion Building  
808 Elm Street, Suite 100  
Cincinnati, Ohio 45202  
(513) 345-5000  
(513) 345-5005 Fax

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing document was electronically filed with the Clerk of Courts using the CM/ECF system on this 29th of January, 2004 which will notify the following via electronic email notification.

Robert Brichler, Esq.  
Assistant U.S. Attorney  
221 E. Fourth Street, Suite 400  
Cincinnati, Ohio 45202

William Gallagher, Esq.  
The Citadel  
114 E. Eight Street  
Cincinnati, Ohio 45202

/s/Kenneth L. Lawson

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

<b>UNITED STATES OF AMERICA</b>	:	Case No. CR-1-02-157
Plaintiff,	:	(Judge Dlott)
	:	
vs.	:	
	:	
<b>STEVE RENICK, SR.</b>	:	
	:	
Defendant.	:	<b><u>MOTION TO RECONSIDER</u></b>
	:	<b>(Hearing Requested)</b>

Now comes the Defendant, Steven Renick, by and through Counsel and hereby moves this Court to reconsider the sentence and allow the Defendant to present evidence that he is entitled to a downward departure based on substantial assistance given the Government.

This Motion is supported by the following Memorandum.

**MEMORANDUM**

As this Court is well aware, at the time of sentencing, it was apparent that the Defendant and his then Attorney did not agree on what was being said to the Court. In fact, when the Attorney asked the Defendant to be quiet, the Defendant refused and tried to explain to the Court the work that he had done for the Government and why he believed he was entitled to a downward departure based on substantial assistance.

The Defendant referred to audio tapes of conversations he had with Agent Mercado who told Defendant he could get probation.

Further, the Defendant was told prior to entering his plea by the agent and then confirmed by his then Attorney that if he gave substantial assistance he could receive probation. However, the Defendant plead to an offense where probation was not an option. There was no way he could legally receive probation under his plea agreement no matter how much cooperation he provided.

Because of the constraints on time, Counsel is filing this Motion and Memorandum with the understanding that it will be supplemented with evidence including, if possible, transcripts of the taped conversations along with affidavits from the Defendant's witnesses and the Defendant himself.

Counsel is also respectfully requesting that the court not file the Notice of Appeal on behalf of Mr. Renick in that Counsel will address the Notice of Appeal once this Court rules on Mr. Renick's motion.

Respectfully submitted,

/s/Kenneth L. Lawson  
Kenneth L. Lawson (0042468)  
Kenneth L. Lawson & Associates  
The Dominion Building  
808 Elm Street, Suite 100  
Cincinnati, Ohio 45202  
(513) 345-5000  
(513) 345-5005 Fax

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was electronically filed with the Clerk of Courts using the CM/EMF system on this 29<sup>th</sup> day of January, 2004 which will notify Bob Brichler, Assistant U.S. Attorney, via electronic email notification.

/s/Kenneth L. Lawson

AO 245B (Rev. 3/01) Sheet 1 - Judgment in a Criminal Case

# United States District Court

## Southern District of Ohio at Cincinnati

UNITED STATES OF AMERICA

v.

STEVE RENNICK, SR.

**JUDGMENT IN A CRIMINAL CASE**

(For Offenses Committed On or After November 1, 1987)

Case Number: 1:02cr157(3)-SJDWilliam Gallagher

Defendant's Attorney

**THE DEFENDANT:**

- ☒ pleaded guilty to count(s): 1.  
☐ pleaded nolo contendere to count(s) \_\_\_\_ which was accepted by the court.  
☐ was found guilty on count(s) \_\_\_\_ after a plea of not guilty.

Accordingly, the court has adjudicated that the defendant is guilty of the following offense(s):

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
21 USC 846	Conspiracy to Distribute Marijuana	10/16/2002	1

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on counts(s) \_\_\_\_ and is discharged as to such count(s).

☐ Count(s) \_\_\_\_ (is)(are) dismissed on the motion of the United States.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and the United States Attorney of any material change in the defendant's economic circumstances.

Defendant's Soc. Sec. No.: 3291Defendant's Date of Birth: 1949Defendant's USM No.: 04050-032

Defendant's Residence Address:

2 Peachtree Court  
Fairfield, Ohio 45014

Defendant's Mailing Address:

2 Peachtree Court  
Fairfield, Ohio 45014

January 28, 2004

Date of Imposition of Judgment

  
Signature of Judicial Officer
SUSAN J. DLOTT, United States District Judge

Name &amp; Title of Judicial Officer

  
Date

[DE-157 P1 JA-82]

157



AO 245B (Rev. 3/01) Sheet 2 - Imprisonment

CASE NUMBER: 1:02cr157(3)-SJD  
 DEFENDANT: STEVE RENNICK, SR.

Judgment - Page 2 of 5

## IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 63 MONTHS.

The defendant shall participate in the Bureau of Prison's Inmate Financial Responsibility Program. The defendant shall participate in a mental health evaluation and/or mental health counseling at the direction of the Bureau of Prisons.

- ☒ The court makes the following recommendations to the Bureau of Prisons:  
 That the defendant be placed in the closest appropriate facility to Cincinnati, Ohio that can give care for Post Traumatic Stress Disorder and physical therapy.
- ☐ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district.  
☐ at \_\_\_ on \_\_\_\_.  
☐ as notified by the United States Marshal.
- ☒ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:  
☐ before \_ on \_.  
☒ as notified by the United States Marshal but no sooner than February 23, 2004  
☐ as notified by the Probation or Pretrial Services Officer.

## RETURN

I have executed this judgment as follows:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

at \_\_\_\_\_, with a certified copy of this judgment.

UNITED STATES MARSHAL

By \_\_\_\_\_  
 Deputy U.S. Marshal

L[DE-157 P2 JA-83]



AO 245B (Rev. 3/01) Sheet 3 - Supervised Release

CASE NUMBER: 1:02cr157(3)-SJD  
 DEFENDANT: STEVE RENNICK, SR.

Judgment - Page 3 of 5

## SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 4 YEARS.

The defendant shall participate in a mental health treatment program at the direction of the probation officer. The defendant shall be prohibited from incurring any new credit or establishing any additional lines of credit without approval of the probation officer. The defendant shall provide the probation officer access to all requested financial information.

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not illegally possess a controlled substance.

*For offenses committed on or after September 13, 1994:*

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter.

☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse.

☒ The defendant shall not possess a firearm, destructive device, or any other dangerous weapon.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page (if indicated below).

## STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow instructions of the probation officer;
- 4) the defendant shall support his or her dependants and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

AO 245B (Rev. 3/01) Sheet 5 - Criminal Monetary Penalties

CASE NUMBER: 1:02cr157(3)-SJD  
DEFENDANT: STEVE RENNICK, SR.

Judgment - Page 4 of 5

**CRIMINAL MONETARY PENALTIES**

The defendant shall pay the following total criminal monetary penalties in accordance with the Schedule of Payments set forth on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
Totals:	\$ 100.00	\$ 10,000.00	\$

- ☐ The determination of restitution is deferred until \_\_. An amended Judgment in a Criminal Case (AO 245C) will be entered after such determination.
- ☐ The defendant shall make restitution (including community restitution) to the following payees in the amounts listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment unless specified otherwise in the priority order of percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid in full prior to the United States receiving payment.

<u>Name of Payee</u>	<u>*Total Amount of Loss</u>	<u>Amount of Restitution Ordered</u>	<u>Priority Order or % of Pymnt</u>
<u>TOTALS:</u>	\$ ____	\$ ____	

- ☐ If applicable, restitution amount ordered pursuant to plea agreement ..... \$ \_\_\_\_
- ☒ The defendant shall pay interest on any fine or restitution of more than \$2500, unless the fine or restitution is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. §3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default pursuant to 18 U.S.C. §3612(g).
- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- ☐ The interest requirement is waived for the ☐ fine and/or ☐ restitution.
- ☐ The interest requirement for the ☐ fine and/or ☐ restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18, United States Code, for offenses committed on or after September 13, 1994 but before April 23, 1996.

AO 245B (Rev. 3/01) Sheet 6 - Criminal Monetary Penalties

CASE NUMBER: 1:02cr157(3)-SJD  
DEFENDANT: STEVE RENNICK, SR.

Judgment - Page 5 of 5

**SCHEDULE OF PAYMENTS**

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

- A ☐ Lump sum payment of \$ due immediately, balance due
- ☐ not later than or  
☐ in accordance with ☐ C, ☐ D, or ☐ E below; or
- B ☒ Payment to begin immediately (may be combined with ☐ C ☐ D, or ☐ E below); or
- C ☐ Payment in installments of \$ over a period of , to commence days after the date of this judgment; or
- D ☐ Payment in installments of \$ over a period of , to commence days after release from imprisonment to a term of supervision; or
- E ☐ Special instructions regarding the payment of criminal monetary penalties (may need multiple instructions if both fine and restitution imposed):

☐ Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties (e.g. fines, restitution) shall be due during the period of imprisonment. All criminal penalties, except those payments made through the Federal Bureau of Prison's Inmate Financial Responsibility Program, are made to the Clerk of the Court, unless otherwise directed by the court, the probation officer, of the United States Attorney.

☐ While incarcerated, the defendant shall make restitution payments in installments of \$ , to commence after the date of this judgment.

☐ If the defendant, while incarcerated, is working in a non-UNICOR or grade 5 UNICOR job, the defendant shall pay \$25.00 per quarter toward defendant's restitution obligation. If working in a grade 1-4 UNICOR job, defendant shall pay 50% of defendant's monthly pay toward defendant's restitution obligation. Any change in this schedule shall be made only by order of this Court.

☐ After the defendant is release from imprisonment, and within 30 days of the commencement of the term of supervised release, the probation officer shall recommend a revised payment schedule to the Court to satisfy any unpaid balance of the restitution. The Court will enter an order establishing a schedule of payments.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- ☐ Joint and Several (Defendant name, Case Number, and Joint and Several Amount):
- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

UNITED STATES OF AMERICA	:	CR-1-02-157-3
	:	
	:	<u>GOVERNMENT'S RESPONSE</u>
v.	:	<u>TO DEFENDANT'S MOTION</u>
	:	<u>TO RECONSIDER</u>
	:	
STEVEN RENNICK, SR.	:	J. Dlott

- - - - -

Now comes the United States and moves this Court for an order denying the defendant's motion to reconsider his sentence. Rule 35 of the Federal Rules of Criminal Procedure does not permit the Court to revisit a sentence for the reasons proposed.

Memorandum

Rule 35(a) of the Federal Rules of Criminal Procedure provides that a sentence that resulted from arithmetical, technical, or other clear error may be corrected within seven days. Rule 35(a), as amended in 2002, was formerly Rule 35(c). The Advisory Committee Notes to former Rule 35(c), 1991 Amendment, state in part:

The authority to correct a sentence under this subdivision is intended to be very narrow and to extend only to those cases in which an obvious error or mistake has occurred in the sentence, that is, errors which would almost certainly result in a remand of the case to the trial court for further action under Rule 35(a). The subdivision is not intended to afford the court the opportunity to reconsider the application or interpretation of the sentencing guidelines or for the court simply to change its mind about the appropriateness of the sentence. Nor should it be used to reopen issues previously resolved at the sentencing hearing through the exercise of the court's discretion with regard to the application of the sentencing

guidelines. Furthermore, the Committee did not intend that the rule relax any requirement that the parties state all objections to a sentence at or before the sentencing hearing. See, e.g., *United States v. Jones*, 899 F.2d 1097 (11<sup>th</sup> Cir. 1990).

Rule 35(c) provides an efficient and prompt method for correcting obvious technical errors that are called to the court's attention immediately after sentencing. But the addition of this subdivision is not intended to preclude a defendant from obtaining statutory relief from a plainly illegal sentence. The Committee's assumption is that a defendant detained pursuant to such a sentence could seek relief under 28 U.S.C. § 2255 if the seven day period provided in Rule 35(c) has elapsed. Rule 35(c) and § 2255 should thus provide sufficient authority for a district court to correct obvious sentencing errors.

In this case, the Court heard from the parties, made rulings concerning the guidelines, and issued a sentence. The rule does not permit the defendant a second bite at the apple.

As the Committee notes indicate, the Rule "is not intended to afford the court an opportunity to reconsider the application or interpretation of the sentencing guidelines or for the court to simply change its mind . . ." The defendant has other adequate remedies available.



Respectfully submitted,

GREGORY G. LOCKHART  
United States Attorney

s/Robert C. Brichler  
ROBERT C. BRICHLER (0017745)  
Assistant United States Attorney  
Attorney for Plaintiff  
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Government's  
Response To Defendant's Motion To Reconsider was served this 2<sup>nd</sup>  
day of February, 2004, electronically on Kenneth L. Lawson,  
Attorney for Defendant Steven Rennick, Sr.

s/Robert C. Brichler  
ROBERT C. BRICHLER (0017745)  
Assistant United States Attorney

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

**UNITED STATES OF AMERICA** : **Case No. CR-1-02-00157**  
 : **(Judge Dlott)**  
**Plaintiff,** :  
**vs.** :  
**STEVE RENNICK, SR.** :  
**Defendant.** : **MOTION TO WITHDRAW PLEA**  
 : **(AFFIDAVIT OF STEVEN RENNICK, SR**  
 : **ATTACHED)**

Now comes Defendant, Steve Rennick Sr., hereby moves this Court to allow him to withdraw his plea in the above-referenced case. This motion is supported by the attached Memorandum of Law and affidavit of Steve Rennick, Sr.

# MEMORANDUM

From the time the Defendant has been charged and indicted on this case, the Defendant has maintained his innocence. The matter has been set for trial several times, and the Defendant repeatedly, through his attorney, informed the Government that he is not interested in a plea of guilty. It was not until the final trial setting and on the morning of trial when the Defendant, approached by his attorney and a Co-Defendant decided that it may be in the best interest of his family and friends to enter the plea. However, very soon after entering the plea, the Defendant wrote the trial Court a rather lengthy letter maintaining his innocence. This was done prior to sentencing. The Defendant, at sentencing, disagreed with the Government's assessment regarding substantial assistance and stated so on the record. The Defendant incorporates his motion to have a hearing on the issue of his 5K1 downward departure as if fully rewritten herein.



It is Counsel's understanding, that the Court and the Government already have a copy of the correspondence sent to the Court by the Defendant maintaining his innocence shortly after his plea of guilty.

Defendant is respectfully requesting that this Court grant this motion and allow him to withdraw his plea.

#### **BREACH OF THE PLEA AGREEMENT**

The Government, advises the Court that the Defendant was not entitled to a 5K1 Motion has breached the agreement and Defendant further request that this Court grants his motion allowing him to withdraw his plea. Although Federal Criminal Rule 11 does not address breach of the plea agreement, pursuant to Criminal Rule 32, the Court may allow Defendant to withdraw his plea after sentencing if the Government breaches the plea agreement.

#### **INEFFECTIVE ASSISTANCE OF COUNSEL**

Defendant must prove that but for Counsel's ineffectiveness under Strickland standard, Defendant would not have pled guilty and would have insisted on trial. Hill v Lockhart 474 U.S. 52, 106 S. Ct. 366, 88 L. Ed. 2nd 203 (1985). In this case, the performance of Counsel fell below the objective standard of reasonableness and resulted in prejudice against the Defendant. Counsel would not allow the Defendant to present evidence to demonstrate that the Government had in fact breached it's plea agreement and had promised the Defendant probation if he cooperated. Since the Defendant, in cooperation with the Government, was shot and almost killed, and since the Defendant also stated on the record at the time of sentencing that he did in fact perform several other deals for the Government that were successful, Counsel for the Defendant should have requested a hearing on this issue.

The Defendant received no downward departure and in essence, was shot and provided information for nothing. The Defendant now has a permanent physical disability as a result of his efforts.

**CONCLUSION**

For the forgoing reasons, Counsel respectfully request that this Court grant his motion to Withdraw Plea.

Respectfully submitted,

/s/Kenneth L. Lawson (0042468)  
Kenneth L. Lawson & Associates  
The Dominion Building  
808 Elm Street  
Cincinnati, Ohio 45202

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing document was electronically filed with the Clerk of Courts using the CM/ECF system on this 10th day of February, 2004 which will notify the Robert Brichler, Assistant U.S. Attorney, via electronic email notification.

/s/Kenneth L. Lawson (0042468)  
Kenneth L. Lawson